

**DENTON COUNTY, TEXAS LOCAL EMERGENCY PLANNING COMMITTEE (LEPC)  
BY-LAWS OF THE LEPC**

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## **ARTICLE I. NAME AND PURPOSE**

### **Section 1. Name.**

The name of this organization shall be the *Denton County Local Emergency Planning Committee*, hereinafter referred to as the "LEPC."

### **Section 2. Purpose.**

The purpose of the LEPC shall be:

- A. To carry out for Denton County those responsibilities established for the LEPC by Public Law 99-499, Superfund Amendments and Reauthorization Act of 1986 (SARA), Title III, the Emergency Planning and Community Right-to-Know Act, (EPCRA) and related regulations, including, but not limited to:
  - 1) Assistance in developing, training and testing of hazardous substances emergency response plans for jurisdictions within Denton County.
  - 2) Development of procedures for regulated facilities to provide notification to the LEPC in accordance with EPCRA.
  - 3) Development of procedures for receiving and processing requests from the public under the community right-to-know provisions of EPCRA.
  - 4) Provision for public notification of committee activities.
- B. To implement such other and further related activities as may hereafter be legally required by the federal government, the State Emergency Response Commission (SERC), or the County Judge.

## **ARTICLE II MEMBERSHIP**

### **Section 1. Qualification.**

The organization shall consist of those members nominated by the County Judge and approved by the SERC for membership in this body. Those persons named shall represent the various professional and community groups as designated by EPCRA. Members of the LEPC shall be a resident of or conduct business in Denton County.

### **Section 2. Officers.**

Officers shall be elected to conduct meetings, appoint subcommittees, keep minutes and otherwise accomplish the work of the committee.

### **Section 3. Vacancies.**

Any vacancy occurring in the LEPC by reason of resignation, death or disqualification of a member will be filled by appointment in accordance with Article II, Section 1. Suggestions for candidates to fill vacant positions may be made by the Executive Committee to the County Judge who will make his or her recommendation to the SERC for approval.

Section 4. Duties.

The LEPC shall assist established emergency planning offices within the county with planning emergency response and public information as directed by laws.

Section 5. Meetings.

There shall be at least six regular meetings of the committee per year. Special meetings of the LEPC may be called by the Chairperson at such time and place as the Chairperson may determine. The Chairperson must call a special meeting of the LEPC upon written request of five members. Special committees shall meet as the work under their groupings proceeds.

Section 6. Quorum.

The presence of thirty-three percent of the members of the LEPC at the opening of the meeting shall constitute a quorum for the transaction of business by the LEPC. For the purposes of Standing Committee meetings, the presence of three members shall constitute a quorum for the transaction of business.

### **ARTICLE III OFFICERS**

Section 1. Enumeration of Officers.

The officers of the LEPC shall be a Chairperson, Vice-Chairperson, and a Secretary-Treasurer who shall be elected by the committee as a whole in a manner herein provided. All officers shall be members of the LEPC.

Section 2. Nomination and Election of Officers.

Nomination and election of officers shall occur at the September meeting. A nominating committee shall be appointed by the Chairperson at the last meeting of the LEPC preceding the September meeting. Nominations will be accepted from the nominating committee and from the LEPC voting members for the positions of Chairperson, Vice-Chairperson, and Secretary-Treasurer.

The election shall be by ballot, except that when there is only one nomination for each office, election may be by voice vote. These officers shall be selected by the majority of the members of the LEPC present and voting at the meeting.

Section 3. Term of Office.

The term of the officers shall be for a period of one year. Their term of office shall begin at the close of the meeting at which they were elected.

Section 4. Chairperson.

The Chairperson or designee shall preside at all meetings of the LEPC; shall serve as ex officio member of all committees; and shall perform such duties and acts as necessary to accomplish the goals of the LEPC. The Chairperson shall be empowered to create such other ad hoc committees as necessary to accomplish the goals of the LEPC.

Section 5. Vice-Chairperson.

Upon resignation or death or in the absence of the Chairperson, the Vice-Chairperson shall perform the duties of the Chairperson. The Vice-Chairperson shall perform such other duties as may be assigned by the Chairperson.

Section 6. Secretary-Treasurer.

The Secretary-Treasurer in cooperation with the Information Coordinator shall be the custodian of all books, papers, documents and other property of the LEPC. The Secretary-Treasurer shall keep a true record of the proceedings of all meetings of the LEPC.

Additionally, the Secretary-Treasurer in conjunction with the Information Coordinator, shall attend to the business needs of the LEPC and shall maintain an accurate record of all monies received and expended for the use of the LEPC.

Section 7. Information Coordinator.

The LEPC Chairperson will appoint an Information Coordinator. The Coordinator shall process requests from the public for information under Section 324, including Tier Two Information under Section 312.

Additionally, the Coordinator shall assist the Secretary-Treasurer in records management and financial matters. The Information Coordinator shall be a non-voting member of all committees and the LEPC.

## **ARTICLE IV COMMITTEES**

Section 1. Executive Committee.

The Executive Committee will consist of the Chairperson, Vice-Chairperson, Secretary-Treasurer and Chairpersons of the four Standing Committees as described below. The Information Coordinator shall serve as a non-voting member of this Committee. The duties of the Executive Committee shall be to coordinate activities of the Standing and Ad Hoc Committees.

Section 2. Standing Committees.

The following Standing Committees shall be established:

(a) Right-to-Know Committee.

This Committee shall be responsible for the formulation of all policies and procedures concerning the public's right-to-know program; the formulation of all chemical release reporting procedures; the establishment of trade secret protection procedures; and the formulation of all record keeping and information dissemination procedures for the LEPC.

(b) Public Education and Information Committee.

This Committee shall be responsible for reviewing the public alert and notification program; public relations with affected communities and public at large; all publicity of the LEPC; development of public education and information program.

(c) Hazardous Materials Facilities Liaison Committee.

This Committee shall be responsible for procedures for identification and communication with affected facilities. This Committee shall work with the Emergency Response and Resources Committee and with affected facilities to review and help the local emergency management offices test a hazardous substance emergency response plan for the planning district as required by law.

(d) Emergency Response and Resources Committee.

This Committee will work with the Hazardous Facilities Liaison Committee and with existing emergency response organization in jurisdictions within the planning district to review and help local emergency management offices test a hazardous substance emergency response plan for the planning district as required by law.

This Committee shall review existing federal, state and local plans for the purpose of coordination with the LEPC planning process.

Section 3. Meetings.

Meetings of the Standing and Ad Hoc Committees may be called by the Chairperson of the LEPC or the Chairperson of the Committee as deemed necessary.

Section 4. Chairperson of the Standing Committees.

The Chairperson of the Standing Committees shall be nominated and elected by their respective Committees. Voting shall be conducted as provided in Article III, Section 2.

Section 5. Membership of Standing Committees.

All members must volunteer to serve on at least one Standing Committee and shall not serve on more than two Standing Committees. Final membership of the Standing Committees shall be determined by the LEPC Chairperson after consultation with the Executive Committee to ensure that all Committees have sufficient manpower to carry out their assigned tasks.

Section 6. Ad Hoc Committees.

The Chairperson may create Ad Hoc Committees as necessary to perform the functions of the LEPC. Chairpersons of Ad Hoc Committees shall be appointed by the Chairperson of the LEPC.

## **ARTICLE V MISCELLANEOUS PROVISIONS**

Section 1. Fiscal Year.

The fiscal year shall be considered to run from October 1 to September 30.

## Section 2. Indebtedness.

All indebtedness incurred by the LEPC shall be approved by the Chairperson before payment by the Secretary-Treasurer.

## Section 3. Disqualification.

Any member who is unable to attend a regular meeting of the LEPC may notify the Secretary-Treasurer or Information Coordinator. Any member with three or more absences per fiscal year is subject to being disqualified at the request of the LEPC to the County Judge and the SERC.

# ARTICLE VI AMENDMENTS

## Section 1. Amendments.

These bylaws may be amended by a two-thirds vote of members present and voting at any meeting of the LEPC provided that any proposed amendments to these bylaws be submitted to the members in writing at least one week in advance of the meeting.

# ARTICLE VII RULES

EPCRA requires that the LEPC “shall establish rules by which the committee shall function. Such rules shall include provisions for public notification of committee activities, public meeting to discuss the emergency plan, public comments, response to such comments by the committee, and distribution of the emergency plan.” The final rules shall be attached to these by-laws.

## Section 1. Adoption of Rules; Publication of Proposals.

The LEPC may, as necessary and proper, adopt rules of general application governing the execution of its responsibilities under EPCRA and related applicable regulations. Any such rules must first be published in proposed form not less than 10 days prior to final adoption by the LEPC.

Publication shall be effected through posting of the proposed rule and a statement of basis and purpose on the public bulletin boards located outside the South side of the Courthouse-on-the-Square, 110 W. Hickory St. and on the West wall inside the Denton County Courts Building, 1450 E. McKinney St., Denton, Texas.

(The proposed rule together with the statement of basis and purpose and here after referred to as “notice of proposed rule-making.”)

Such notice of proposed rule-making shall invite written public comment on any aspect of the proposed rule during the 10-day period. The LEPC Information Coordinator is encouraged, but not required to mail notices of the proposed rule-making to interested local government officials, industries, and citizens.

## Section 2. Method of Initiating Proposed Rule-making.

Any member of the LEPC may recommend the initiation of proposed rule-making. Any proposed rules shall be initially considered by the Executive Committee, unless otherwise decided by the LEPC. If the Executive Committee, by majority vote approves a proposed rule it shall thereafter proceed to publication as provided in the preceding section.

### Section 3. Method of Adopting Final Rules.

Following the expiration of the 10-day comment period, the Executive Committee shall review all public comments and prepare a statement which responds to comments raised and discusses the basis for any appropriate changes to the proposal.

The Executive Committee shall present such statement to the LEPC. The LEPC shall then vote on the adoption of the proposed rule. If the LEPC acts favorably, the rule shall take effect immediately upon the time and date the notice of adoption is first published unless the LEPC determines otherwise.

### Section 4. Notice of Adoption.

Upon adoption of any rule by the LEPC, the Information Coordinator also shall publish the LEPC's response to comments received and any changes to the proposal made in response to such comments. Publication of the final rule shall be in the same manner as that for the proposed rule. Nothing herein shall require a specific response to each and every comment received.

### Section 5. Emergency Rules.

In emergency circumstances, to be determined, the LEPC may adopt rules without prior public notice and comment, provided that no such rule will remain in effect for more than 90 days.

## **ARTICLE VIII PARLIAMENTARY AUTHORITY**

### Section 1. Parliamentary Authority.

The rules contained in Robert's Rules of Order, Newly Revised, shall govern this committee in all cases to which they are applicable and in which they are not inconsistent with these bylaws.

#### LEPC Final Rules

### **I. Definitions**

Unless otherwise stated, all terms herein shall be defined in accordance with the definitions provided in the Title II of the Superfund Amendments and Reauthorization Act of 1986, PL 99-499, (the "Act") and regulations adopted in accordance therewith.

### **II. Public Notification and General Participation**

- A. The LEPC shall publish notice of all its meetings, and all subcommittee meetings, on the public bulletin board located outside the South side of the Courthouse on the Square, 110 W. Hickory St. and on the West wall inside the Denton County Courts Building, 1450 E. McKinney St., Denton, Texas, at least 72 hours prior to any such meeting.

In emergencies, declared by the Chairperson and confirmed by a majority of the LEPC in attendance at an emergency meeting, the 72-hour notice may be waived in accordance with Section 3A(h) of the Texas Open Meetings Act (TOMA), Tex. Rev. Civ. Stat. Ann art. 6252-17.

- B. All meetings of the LEPC or any subcommittee thereof shall be open to the public, except under circumstances where the TOMA permits otherwise. The Chairperson shall afford a reasonable period of time at the beginning of each regular meeting to accept oral public comments on any aspect of the LEPCs mission or functions.
- C. Not less than once each calendar year, the Chairperson shall cause to be published in a newspaper of general circulation in Denton County a notice that written public comment is invited during a thirty-day period on any aspect of the LEPCs organization, membership, functions, planning process or purpose.

Such notice shall comply in all respects with Section 324(b) of the Act and present a brief explanation of the LEPCs statutory purpose, the location of LEPC minutes and other records, and the name and address of the person designated by the Chairperson to receive written comments.

The LEPC shall review all comments received and shall publish, in the manner described in subsection A of this section, responses to major issues raised in such public comments. Nothing herein shall require the LEPC to respond to each and every comment received.

### **III. LEPC Participation in the Planning Process**

- A. The Texas Disaster Act of 1975, as amended, requires each local and inter-jurisdictional agency to prepare and keep current an emergency management plan for its area. Additionally, in accordance with a
- B. Governor's Executive order, the mayor of each municipal corporation and the county judge of each county in the state are the designated Emergency Management Directors for each such political subdivision. In Texas, LEPCs are therefore not the primary entity responsible for the composition and maintenance of an emergency plan.
- C. The LEPC will strive to work with the local governments, which are responsible for the emergency management plans, which cover the areas of LEPC responsibility.
  - 1. The LEPC shall review such plans once a year, or more frequently as changed circumstances in the community or at any facility may require. Their primary focus should be with those parts of the plan which cover the following categories: warning, population protection, emergency public information, resources management, and HAZMAT response.
  - 2. The LEPC shall evaluate the need for resources necessary to develop and implement the emergency plan, and shall make recommendations with respect to additional resources that may be required.
- D. The LEPC should maintain copies of current plans and annexes of each jurisdiction it serves.

### **IV. Public Access to Information**

- A. In accordance with Section 324 of the Act, all information obtained from an owner or operator pursuant to Emergency Planning and Community Right-to-Know Act (EPCRA) and any requested Tier Two form or the Material Safety Data Sheet (MSDS) otherwise in possession of the Committee shall be made available to the person submitting request under this section, provided upon request of the owner or operator, the Committee shall withhold from disclosure the location of any specific chemical identified in the Tier Two form.
- B. All information requested to be photocopied by any member of the public, shall be provided at the sole expense of such persons. The cost of such photocopying shall be set from time to time by the Information Coordinator, with the approval of the Executive Committee, at a level which will enable the LEPC to recover all reasonable expenses associated with processing the request.

Copies of the LEPC bylaws, proposed rules or rules shall be provided at no charge to the public, although the Information Coordinator is authorized to recover reasonable expenses for photocopying in the cases of requests for multiple copies made by any single individual or entity.

**C. Requests for MSDS and Other Non-Confidential Information**

1. Any person may obtain a MSDS with respect to a specific facility by submitting a written request to the LEPC's Information Coordinator.
2. Any person may obtain any other non-confidential information in the possession of the LEPC by submitting a written request to the LEPC's Information Coordinator.
3. If the LEPC does not have in its possession the MSDS or other information requested in subsections C1 or C2 of this section, it shall request a submission of the MSDS from the owner or operator of the facility that is the subject of the request. The LEPC will only make requests to specific facilities for information which it is required to maintain or collect pursuant to applicable law.

**D. Requests for Tier Two Information**

1. Any person may request Tier Two information with respect to a specific facility by submitting a written request to the LEPC in accordance with the requirements of this section.
2. If the LEPC does not have in its possession the Tier Two information requested in subsection D1 of this section, it shall request a submission of the Tier Two form from the owner or operator of the facility that is the subject of the request, provided that the request is from a state or local official acting in his or her official capacity or the request is limited to hazardous chemicals stored at the facility in an amount in excess of threshold planning quantities.
3. If the request under subsection D1 of this section does not meet the requirements of subsection D2 of this section, the LEPC may request submission of the Tier Two form from the owner or operator of the facility that is the subject of the request if the request under subsection D1 of this section includes a general statement of need.

**V. Trade Secrets**

Except as provided in this section, all information submitted to the LEPC by facilities pursuant to EPCRA shall be public information.

Other than a claim designated in this section, the LEPC will not honor any business confidentiality or trade secret claims. Pursuant to Section 312 and Section 214(a) of the Act, the location of specific chemicals requested to be submitted with Tier Two information shall be maintained as confidential by the LEPC provided that a claim of confidentiality is submitted with the information and satisfies all applicable requirements for such claims under EPCRA and any regulations promulgated pursuant to the same.

Such information shall be exempt from disclosure by the LEPC permanently or until such time as:

An authorized governmental agency, and if applicable, a court or competent jurisdiction makes a final determination following any appeals, that such information not subject to a valid claim of business confidentiality or trade secret, and the LEPC receives a written notice of such determination.